IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1718 OF 2006

M/s.Indian Commercial Company Ltd. .. Petitioner
V/s
Union of India & Ors. .. Respondents

Mr.V.Patil with Ms.Asifa Khan for the Petitioner.
Mr.A.S.Rao for the Respondents.

CORAM : DR.S.RADHAKRISHNAN & V.C.DAGA, JJ.

DATE : 20th March, 2007.

P.C.:

1. Rule. Rule is made returnable forthwith. The learned Counsel for the Respondents waives service. By consent taken up for hearing. Heard the learned Counsel for the parties.

2. By this petition, the Petitioner is challenging the part of the order dated 21st November, 2005 passed by the Chief Commissioner of Income Tax whereby the Chief Commissioner of Income Tax has rejected the application of the Petitioner with regard to the waiver of interest under Section 234B of the Act. We have perused the said order. The said order does not disclose any reason as to why the Petitioner is not entitled to said benefit. The learned Counsel for the Petitioner has strongly relied upon the Circular dated 23rd May, 1996, especially clause 2(d) thereof.

2. In view thereof, on the limited ground, as the said order does not indicate any reason as to why the

Petitioner is not entitled to said benefit under Section 234B of the Act, we quash and set aside the order dated 21st November, 2005 and remand back the matter to the Chief Commissioner of Income Tax to decide the same in accordance with the Circular dated 23rd May, 1996.

3. It is made clear the learned Chief Commissioner of Income Tax shall give an opportunity of personal hearing before passing the order. The learned Chief Commissioner of Income Tax shall pass the order as expeditiously as possible.

4. Rule is made absolute in terms of the above.

(V.C.DAGA, J.) **(DR.S.RADHAKRISHNAN,J.)**